

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

LISA BLACKWELL, on behalf of herself and all  
others similarly situated,

Plaintiff,

vs.

THE HERSHEY COMPANY; HERSHEY  
CANADA INC.; MARS, INC.;  
MASTERFOODS USA; MARS CANADA INC.;  
NESTLE S.A.; NESTLE USA; NESTLE  
CANADA INC.; and ITWAL LTD.,

Defendant.

Case No. C-08-00674-EMC

**STIPULATION FOR EXTENSION OF  
TIME FOR DEFENDANTS NESTLÉ USA,  
THE HERSHEY COMPANY AND MARS,  
INC. TO ANSWER, MOVE, OR  
OTHERWISE RESPOND TO COMPLAINT**

**AND [PROPOSED ORDER]**

Defendant Nestlé USA, by counsel, pursuant to Local Rule 6-1(a), hereby files this Stipulation for Extension of Time for Defendant Nestlé USA, The Hershey Company, and Mars, Inc. (collectively, “Defendants”) to Answer, Move, or Otherwise Respond to Plaintiff Lisa Blackwell’s (“Plaintiff”) Complaint (the “Stipulation”), and states as follows:

Case No. C-08-00674-EMC

STIPULATION FOR EXTENSION OF TIME FOR DEFENDANTS TO RESPOND TO COMPLAINT

1 WHEREAS Plaintiff has filed a Complaint in the above-captioned case on or about January 28,  
2 2008;

3 WHEREAS Plaintiff alleges price fixing of chocolate;  
4

5 WHEREAS at least fifty-seven complaints have been filed to date in federal district courts  
6 throughout the United States by plaintiffs purporting to bring class-actions on behalf of direct and  
7 indirect purchasers alleging antitrust violations by manufacturers, distributors, and sellers of Chocolate  
8 (collectively, the "Chocolate Cases");

9 WHEREAS several motions are pending before the Judicial Panel on Multidistrict Litigation  
10 (the "Panel") to transfer the Chocolate Cases for coordinated and consolidated pretrial proceedings  
11 pursuant to 28 U.S.C. § 1407 (the "MDL Motion");  
12

13 WHEREAS Plaintiff anticipates the possibility of a Consolidated Amended Complaint in the  
14 Chocolate Cases after an Order on the MDL Motion is issued by the Panel and the Chocolate CASES  
15 are assigned to a transferee court (the "MDL Order");

16 WHEREAS Plaintiff and Defendants (the "Parties") agree that an orderly schedule for any  
17 response to the pleadings in the Chocolate Cases, including the Complaint, would be more efficient for  
18 the Parties and for the Court;  
19

20 PURSUANT TO LOCAL RULE 6-1(a), THE PARTIES, BY COUNSEL, HEREBY  
21 STIPULATE AS FOLLOWS:  
22

- 23 1. The time for Defendants to answer, move, or otherwise respond to the Complaint shall be  
24 extended until the earlier of the following dates: (1) forty-five days after the filing of a  
25 Consolidated Amended Complaint in the Chocolate Cases; or (2) forty-five days after Plaintiff's  
26 written notice to Defendants that Plaintiff does not intend to file a Consolidated Amended  
27 Complaint (the earlier of those two dates is defined as the "Response Date"); *provided*,  
28 *however*, that in the event that a Defendant should agree or be ordered to answer, move, or

1 otherwise respond in any Chocolate Case prior to the Response Date, then that Defendant shall  
2 respond to the Complaint by that earlier date.

3  
4 2. To the extent not already served, defense counsel identified below shall waive and accept  
5 service of the summons and the Complaint, including any amended or consolidated Complaint,  
6 on behalf of the domestic entities that they represent; *provided, however*, that by entering into  
7 this Stipulation, Defendants do not waive any other defenses including, but not limited to, the  
8 defense of lack of personal or subject matter jurisdiction, or improper venue, or service of an  
9 improper entity, except for objections based on a defect in the summons or in the service of a  
10 summons.

11  
12 3. Plaintiff agrees not to seek discovery from Defendants until after the MDL Order and the  
13 transferee district enters a case management order (“CMO”); *provided, however*, that in the  
14 event that a Defendant should agree or be ordered to provide discovery in any Chocolate Case  
15 before such CMO, then that Defendant will simultaneously provide the same discovery to  
16 Plaintiff.

17  
18 4. The provisions of this Stipulation are available, without further stipulation with counsel for  
19 Plaintiff, to all Defendants who notify Plaintiff in writing of their intention to join this  
20 Stipulation.

21  
22 IT IS SO STIPULATED.

23  
24 Based on the above Stipulation, Plaintiff requests that the Court enter the proposed Order  
25 attached hereto.

26  
27 ///

28 ///

1  
2 Dated: March 5, 2008

Respectfully submitted,

HOWREY LLP

By: /s/ Karin Kramer

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**Attorneys for Defendant Nestlé USA**

13 Dated: March 5, 2008

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**Counsel for Defendant The Hershey Company**

25 Dated: March 5, 2008

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**Counsel for Defendant Mars, Inc.**

Dated: March 5, 2008

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**Counsel for Plaintiff Lisa Blackwell**

**ORDER**

PURSUANT TO THE STIPULATION ATTACHED HERETO, IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Edward M. Chen

**General Order 45 Attestation**

I, Karin Kramer, am the ECF User whose ID and password are being used to file this Stipulation For Extension Of Time For Defendants To Answer, Move, Or Otherwise Respond to Complaint. In compliance with General Order 45, I hereby attest that Counsel for Plaintiff Lisa Blackwell, and Counsel for Defendants The Hershey Company, and Mars, Inc., have concurred in this filing.